

REMARKS

STATEMENT OF SUBSTANCE OF INTERVIEW

On July 17, 2008, the undersigned attorney conducted a telephone interview with Examiner Nguyen regarding the Advisory Action of May 21, 2008.

The attorney noted that the present invention is quite different from Barkmann.

Examiner Nguyen suggested that, if claim 16 were amended in an RCE to contain the "outside" limitation, claim 16 probably would be allowable over Barkmann, and noted that "outside" did not appear in the claims.

By the above amendments, claim 16 has been so amended, and also amended to be limited to the "cone-type sifter".

* * *

The Advisory Action stated "For purposes of appeal, the proposed amendment(s) will be entered...". However, in item 5 of the Advisory Action, the Examiner states that the Terminal Disclaimer filed on April 29, 2008 overcomes the double-patenting rejection. It is assumed that the Terminal Disclaimer has been entered and that the double-patenting rejection is overcome; however, if for any reason the Terminal Disclaimer was not entered, Applicant respectfully requests the Examiner now to enter the Terminal Disclaimer.

Referring back to the Final Office Action, Applicant repeats the amendments to claim 16 to overcome the objection thereto and also repeats the amendments to claims 16-25 to overcome the rejection under 35 U.S.C. § 112, second paragraph.

Applicant again respectfully **traverses** the rejection of claims 16-25 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Barkmann '040. Claims 19, 22 and 24 have been canceled without prejudice, thereby rendering moot their rejections.

Rather than burden the record with Applicant's extensive rebuttal arguments regarding the rejection under 35 U.S.C. § 103(a), Applicant hereby incorporates by reference these arguments, particularly with respect to the amended claim 16 which now contains the "outside" limitation as suggested by Examiner Nguyen.

With respect to the last paragraph of the Advisory Action, and even though Applicant has canceled claim 25 without prejudice, Applicant notes that the "Coanda" effect described in Barkmann is not comparable to the effect of the air-permeable drum (64) recited in (canceled) claim 25.

Even though the following may be repetitious, Applicant notes the following:

The arrangement of a separate sifter as an independent element outside of the distributor is fundamentally novel and unobvious in the design of a device for processing tobacco in the cigarette industry. The distributors disclosed in the technical literature and used in practice are without exception designed as a closed technical unit. Insofar as these distributors execute a sifting of tobacco, the sifter is always disposed within the distributor, in most cases as a zigzag

distributor. This is related to the operational process of the distributor: The tobacco is introduced through an input opening.

In the case of the Barkmann distributor, the tobacco is conveyed to the distributor through a “pneumatic” tobacco gate 1. It is a characteristic of hitherto employed distributors that the tobacco is conveyed through the distributor in a continuous transport flow, namely through the elements and assemblies for loosening up the tobacco and executing other handling steps. Here, the sifter is integrated into the working process and, in the case of Barkmann, for example, follows a plurality of upstream assemblies labeled with reference numbers 2 to 11 in Fig. 1.

In the case of Applicant's invention, its innovative and unobvious achievement also lies in the fact that the sifter is positioned such that the sifting is executed as the first handling step upstream of all other processing steps. The entire tobacco first passes through the high-performance sifter and only afterwards does it pass into the distributor. This operation, therefore, has nothing to do with the possibility of positioning the distributor in a separate position in order to facilitate its cleaning. (Compare Barkmann).

By virtue of the claimed invention, the tobacco is subjected to a novel manner of treatment because the sifting operation has been relocated, with the condition that only completely sifted tobacco reaches the distributor. Such an arrangement is advantageous over the prior art, not only for economical reasons but also for the superior quality of the tobacco handling process.

In summary, then, in view of the above claim amendments, particularly the amendments to independent parent claim 16, Applicant respectfully requests the Examiner to reconsider and

withdraw all objections and rejections, and to find the application to be in condition for allowance with all of claims 16-18, 20, 21, 23 and 26. (New claim 26 (26/16) recites the upright guide body (21) already recited in a portion of claim 18.)

Applicant files concurrently herewith a Petition (with fee) for an Extension of Time of one month, thereby extending the time for a response to August 27, 2008. (A Notice of Appeal was filed on May 27, 2008.) Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

REQUEST FOR INTERVIEW

If for any reason Examiner Nguyen feels that the application is not now in condition for allowance, he is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

In this regard, it was the undersigned attorney's understanding that the insertion of the (previously unrecited) "outside" limitation in claim 16 would render claim 16 (and its dependent

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claims) patentable over Barkmann; however, if for any reason the Examiner feels any additional amendments are required for allowance of the application, the attorney would like the opportunity to discuss same with the Examiner.

Respectfully submitted,

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